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Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	96-262
	)	
Assessment of Presubscribed	)	CCB/CPD Dkt. No. 98-34
Interexchange Carrier Charge	)	
On Public Pay Telephone Lines	)	

COMMENTS OF BELL ATLANTIC[1]

In its decision reforming interstate access charges, the Commission did not carve out an exemption for pay telephone lines from the payment of its new presubscribed interexchange carrier charge ("PICC"), nor should it have. There is nothing unique in the nature of pay telephone lines that would require special treatment with respect to the PICC. On the contrary, these lines incur the same interstate costs as all other lines. As a result, creating an exemption for pay telephone lines would force customers of other services to subsidize these costs for no good reason. Consistent with existing Commission rules, the Common Carrier Bureau should reject the requests for special treatment filed by pay telephone interests here.

I. Public Pay Telephone Lines Should Continue to Be Subject to PICCs.

Does the Commission's Existing rule governing collection of the PICC, 47 C.F.R. § 96.153, permit price cap LECs to impose PICC charges for LEC

[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

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public payphone lines and, if not, whether the rule should be amended to provide explicitly for assessment of PICCs on public payphone lines?

The current rules do not exempt pay telephone lines from the generic requirement that obligates long distance carriers to pay PICCs. The PICC was intended as a "flat, per-line charge" that would recover interstate common line costs that are not recovered through end user charges. *Access Charge Reform,* 12 FCC Rcd 15982, ¶ 92; *see* 47 C.F.R. § 69.153(a). The *only* lines exempted were lines for Lifeline customers who elect toll blocking, and this was done purely to advance the goals of universal service. *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 5318, ¶¶ 122-25 (1997). All other lines -- including payphone lines -- are subject to the PICC, which must be paid either by the carrier to whom a line is presubscribed, or by the customer if the line is not presubscribed.

The recent deregulation of the local exchange carrier's pay telephone businesses does not justify an exception to this rule. That deregulation addressed the pay telephones themselves, but specifically retained regulation for the recovery of "the costs of the line connecting those sets to the public switched network." *Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act*, 11 FCC Rcd 20541, ¶ 183 (1996) ("Pay Telephone Deregulation Order"). Indeed, in the orders deregulating pay telephones, the Commission reconfirmed that pay telephone lines incur common line costs, and should be assessed common line cost recovery, no different than any other subscriber.[2]

[2] *Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act*, 11 FCC Rcd 21233, ¶¶ 203-207 (1996). Although the PICC went into effect after that order was adopted, the reasoning applies equally to end-user common line charges and the PICC.

Exempting pay telephone lines from PICCs would not reduce local exchange carriers' costs, and instead would merely reduce the number of lines over which cost recovery could be spread. In other words, exempting pay telephone lines from PICCs would mean that other customers would pay higher per-line rates to subsidize the costs that are incurred on the payphone lines.

Do policy reasons, practical consideration, or other factors suggest that price cap LECs should be permitted to assess PICCs on the LECs public payphone liens that are different in amount, or collected from a different party, from those assessed on privately-owned payphones

No. The Commission has already recognized that independent payphone providers and local exchange carrier payphone providers both should be subjected to end-user common line charges "to avoid discrimination among payphone providers." Pay Telephone Deregulation Order at ¶ 187; *see also C.F. Communications Corp. v. FCC*, 128 F.3d 735 (D.C. Cir. 1997) (invalidating FCC rules that imposed charges on some, but not all, pay telephone lines). That same concern applies to the PICC as well. Long distance carriers for independent pay phone providers are subject to the PICC, and there is no basis to exclude the long distance carriers that serve local exchange carrier owned payphones.

II. Lines of Multiline Payphone Customers Should Be Assessed a Multiline PICC

Should all public payphones be charged the multiline business PICC, or should some public payphones, such as those that constitute the only telephone line at a given location, be charged the single-line business PICC?

The PICC rate assessed on pay telephone lines is the multiline business PICC. This is consistent with the Commission's determination that customers of pay telephone lines must pay the multiline end-user common line charge. Pay Telephone Deregulation Order at ¶ 187. Treating pay telephone line customers as multiline businesses also is consistent with the Commission's rules and with common sense. The rules define a single line business subscriber line as one where the charge is other than a residential charge and the subscriber "does not obtain more than one such line from a particular telephone company." 47 C.F.R. § 69.152(i). The subscriber here is the payphone service provider, which purchases multiple lines to operate multiple payphones. There simply is no reason to allow the long distance carriers for these multiline customers to pay a single line rate designed for small businesses that only purchase one line.

It is a red herring to suggest, as Oncor does, that because pay telephones may be located at "service stations, restaurants, taverns, campgrounds and other small businesses" they are a single line service. Letter from Stephen H. Loberbaum, General Counsel Oncor Operator Communications, Inc. to Richard Metzger, Chief Common Carrier Bureau (Apr. 22, 1998). The location owner is not the subscriber to the pay telephone line, the pay telephone provider is. And even if the location owner were the pay telephone customer, which it is not, it would still be a multiline customer to the extent the payphone is in addition to its regular business service.

There is no basis to institute a change in the federal PICC rules to support the small portion of pay telephones in the most remote locations. As the Commission recognized, the need for those telephones is already addressed through programs administered by state regulators. *See* Pay Telephone Deregulation Order at ¶ 277-280.

III. Pay Telephone Line PICC's Should Be Imposed On The Single Designated Interexchange Carrier

Assuming that price cap LECs are permitted to assess PICC charges on public payphone lines, should the PICC be (a) charged to the presubscribed 1+ carrier; (b) charged to the presubscribed 0+ carrier; (c) imputed to the LEC's payphone unit as an end user; (d) split evenly between the 1+ and 0+

PIC; or (e) prorated among all IXCs that carry calls originating from a particular payphone each month?

To what degree could imposition of PICC charges on any of the parties listed in Question (3) above cause reductions in the availability of public payphones services, increases in rates, or reduction in competition for interstate, interLATA traffic originating from public payphones?

Just as the PICC on the pay telephone line should be no different than the PICC on any other line, the designated presubscribed interexchange carrier is responsible for the charge, just as with any other line. Pay telephone lines do not have multiple presubscribed interexchange carriers. Just as with any other line, the subscriber to a pay telephone line may designate a single presubscribed carrier. It is that carrier that is responsible for the PICC.

The confusion surrounding this simple designation stems from the fact that many long distance carriers do not provide service for coin calls. These carriers may subcontract out that service to carriers that do have that capability.[3] Regardless of whether the carrier presubscribed by the pay phone provider handles the traffic itself or through another carrier,

3 *See* Bell Atlantic Tariff FCC No. 1, page 101, section 4.2(E)(1) ("The presubscribed provider has the option to receive both 0+ and 1+ interLATA calls originating from Telephone Company public and semipublic coin telephones, or to select one subcontracted provider per LATA to receive the 1+ coin sent-paid interLATA traffic . . ."). This subcontracting may also go the other way (with the designated carrier retaining the 1+ traffic and subcontracting out the 0+ service. In either situation, the PICC still falls on the designated presubscribed carrier. A presubscribed provider may also elect to default its 1+ service to the carrier already handling such coin calls until the presubscribed provider is ready to handle such traffic. Again, such a default should have no impact on the PICC because it is within the control and option of the presubscribed carrier who may switch the traffic to itself or another subcontractor at any time.

however, the single designated interexchange carrier (and only that carrier) has the responsibility for the PICC. This simple system refutes the claim that LECs may be "double dipping" by charging more than one PICC per line. Letter from John Goida, President TeleConcepts Inc. to Richard Metzger, Chief of the Common Carrier Bureau (Apr. 17, 1998).

Like long distance carriers for any line, long distance carriers for pay telephone lines have flexibility to design their own price structure to recover all their costs, including the cost of the PICC. To the extent that a subcontractor is carrying most of the long distance traffic for a line, it may be the choice of the presubscribed long distance carrier to pass along the full cost of the PICC to the subcontracting carrier. That is a pricing decision of the long distance carrier alone. Of course, the long distance carrier also benefits from lower per-minute access rates that it may choose to pass along as well. Thus, the complaints of companies that are suffering financially because the PICC is "being passed through in its entirety" should not be directed at the Commission or the local carriers, but rather at any long distance carrier that has passed along only the burden and none of the benefits of access reform price restructure.[4]

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[4] Letter from William M. Waldron, Boston Telecommunications Co. to Jane Jackson, Chief of the Competitive Pricing Division (Apr. 22, 1998). Long distance carriers not only broke their promises "to pass through hundreds of millions of dollars worth of reductions in per-minute access charges over the last year to [their] customers," but have aggravated the offense by "imposing well over *two billion* dollars in increased charges to consumers this year when the long distance carriers' own costs in fact went down again." *MCI Telecommunications Corp. Petition for Prescription of Tariffs Implementing Access Reform*, CCB/CPD 98-12, Opposition of Bell Atlantic at 1 (filed Mar. 18, 1998).

Conclusion

The Commission should continue to treat pay telephone lines like any other regulated line and allow local carriers to recover a multiline business PICC from the presubscribed long distance carrier.

Respectfully submitted,

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May 26, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of May, 1998 a copy of the foregoing "Comments of Bell Atlantic" was served on the parties on the attached list.

Jennifer L. Hoh

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